

**AGENDA**  
**Interested Persons' Meeting**  
**October 7, 2008, 2:00 PM**  
**8th Floor Hearing Room**  
**428 J Street, Suite 800**  
**Sacramento, California 95814**

**Expenditures by Governmental Agencies for  
Communications Related to a Ballot Measure**

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The staff of the Fair Political Practices Commission (the "Commission") will hold an interested persons' meeting soliciting public input to assist the Commission in its review and consideration of regulatory action addressing expenditures by governmental agencies for communications related to a ballot measure.

Issues:

The Political Reform Act (the "Act") defines the term "expenditure" as "a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for a political purpose." (Section 82025.) In other words, an expenditure includes "any payment made for a political purpose." (Regulation 18225.)

The term "independent expenditure" is defined as "an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the candidate or committee." (Section 82031.)

While an independent expenditure requires express advocacy under the Act, neither the plain language of the Act nor the Commission defines an expenditure to require express advocacy. Moreover, Regulation 18225 provides only that the term expenditure *includes* payments "used for communications which expressly advocates ... the qualification, passage or defeat of a clearly identified ballot measure." Nothing in Regulation 18225 necessarily precludes payments made for communications not expressly advocating the qualification, passage or defeat of a ballot measure from the statutory definition of the term expenditure.

Accordingly, Commission staff is proposing Regulation 18420.1. This proposed regulation is intended to clarify that a payment of public moneys by a governmental agency for a communication relating to a ballot measure shall be considered an expenditure, or in other words a payment made for a political purpose, unless the communication provides a fair and impartial presentation of facts. By providing an exception for communications providing a fair and impartial presentation of facts, the

proposed regulation provides a safe harbor for agencies providing educational materials related to a ballot measure consistent with applicable law.

The Commission encourages attendees to provide input on these issues and to raise additional issues for consideration. The Commission also invites written comments regarding these issues. Written comments may be addressed to Brian Lau, Legal Division Counsel, at the address set forth above. To participate in the interested persons' meeting by telephone, please contact Virginia Latteri-Lopez at (916) 322-5660. For further information and proposed regulatory language, staff directs interested persons to Staff's Prenotice Memorandum to the Commission dated August 21, 2008, available at <http://www.fppc.ca.gov/agendas/09-08/18420.1memo.pdf> and proposed regulation 18420.1 available at <http://www.fppc.ca.gov/agendas/09-08/18420.1.pdf>.